

LOCATION-CUSTODY

**Eastern District of Washington
U.S. District Court (Spokane)
CRIMINAL DOCKET FOR CASE #: 2:13-mj-04346-JPH-1**

Case title: USA v. Stites

Date Filed: 11/15/2013

Other court case number: 04CR349-001-BR Oregon

Assigned to: Magistrate Judge
James P. Hutton

Defendant (1)

John Timothy Stites

represented by **Federal Public Defender – YAK**
Federal Defenders – YAK
Eastern Washington
306 East Chestnut Avenue
Yakima, WA 98901
Email: maria_deleon@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

18:13-7990.F SUPERVISED
RELEASE PETITION

Disposition

Plaintiff

USA

represented by **Alison L Gregoire**
 United States Attorney's Office
 402 E Yakima Avenue
 Suite 210
 Yakima, WA 98901
 509-454-4425
 Fax: 509-454-4435
 Email: alison.l.gregoire@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Page	Docket Text
11/15/2013	<u>1</u>	3	RULE 5 DOCUMENTS RECEIVED from District of Oregon as to John Timothy Stites (1) (KW, Case Administrator) (Entered: 11/15/2013)
11/15/2013	2		NOTICE OF HEARING – By Court as to John Timothy Stites (1). Text entry; no PDF attached. Rule 5 Initial Appearance – Supervised Release Petition set for 11/18/2013 at 02:00 PM in Yakima before Magistrate Judge James P. Hutton. (PH, Case Administrator) (Entered: 11/15/2013)
11/15/2013	<u>3</u>	7	NOTICE OF ATTORNEY APPEARANCE Alison L Gregoire appearing for USA as to John Timothy Stites (1) (Gregoire, Alison) (Entered: 11/15/2013)
11/18/2013	4		Oral MOTION for Detention by USA as to John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	5		ORDER APPOINTING FEDERAL DEFENDER as to John Timothy Stites (1). On the basis of the sworn financial statement, the court finds Defendant is financially unable to retain counsel. IT IS ORDERED the Federal Defenders of Eastern Washington are appointed to represent Defendant pursuant to Title 18 United States Code Sec. 3006A Appointed Federal Public Defender – YAK for John Timothy Stites – Text entry;no PDF document will issue. This text-only entry constitutes the court order on the matter. Signed by Magistrate Judge James P. Hutton. (KRR, Judicial Assistant) (Entered: 11/18/2013)
11/18/2013	<u>6</u>	8	Minute Entry for proceedings held before Magistrate Judge James P. Hutton: Initial Appearance in Rule 5 Proceedings as to John Timothy Stites (1) held on 11/18/2013. (Reported/Recorded by: FTR/Y-102) (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>7</u>	9	ORDER OF REMOVAL granting ECF No. 4 Motion for Detention (USM Action Required) as to John Timothy Stites (1). Signed by Magistrate Judge James P. Hutton. (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>9</u>	11	ACKNOWLEDGMENT OF NOTICE OF RIGHTS by John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>10</u>	13	ASSERTION OF FIFTH AND SIXTH AMENDMENT RIGHTS by John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>11</u>	14	WAIVER of Rule 5 Hearings by John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. MJ-13-4346-JPH
vs.)	
JOHN TIMOTHY STITES,)	
)	
)	
Defendant.)	
_____)	

Received Rule 5 papers from the United States District Court,
District of Oregon

PROB 12C-OR
(01-21-09)

UNITED STATES DISTRICT COURT

for
DISTRICT OF OREGON

PETITION FOR WARRANT
AND
ORDER TO SHOW CAUSE

U.S.A. vs. JOHN TIMOTHY STITES

Docket No. 0979 3104CR00349-001-BR

Petition on Probation and Supervised Release

COMES NOW MATTHEW K. PRELITT, PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of John Timothy Stites, who was convicted of Felony in Possession of a Firearm and placed on supervision by The Honorable Anna J. Brown sitting in the court at Portland, Oregon, on the 12th day of September, 2005. Defendant was sentenced to 100 months custody of the Bureau of Prisons, to be followed by a 3-year term* of supervised release, and the general terms and conditions theretofore adopted by the court were imposed.

*Term of supervised release commenced on August 3, 2012.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

Violation of Standard Condition No. 2 - Failing to submit a written monthly report within the first 5 days of each month and failing to report to the probation officer. On October 19, 2012, a request was submitted to the Western District of Washington (WD/WA), U.S. Probation Office, Seattle, to transfer supervision to their district so Stites could reside with his mother. The WD/WA U.S. Probation Office authorized travel to their district pending acceptance of supervision. Stites had a Washington Department of Corrections probation violation warrant and a pending charge in Kittitas County, Washington, to resolve. Stites resolved his pending court matters and reported regularly to his state probation officer. On December 13, 2012, the WD/WA U.S. Probation Office denied his request to transfer to their district, as Stites married Alicia Tofoya and requested to relocate to the District of New Mexico (D/NM) to reside with his new wife. On January 15, 2013, a request was submitted to transfer Stites' supervision to the D/NM. On February 14, 2013, D/NM U.S. Probation Officer denied Stites request to transfer to their district, to be revisited in 6 months, if Stites remained compliant with his conditions. Stites continued to reside at 6718 5th Avenue NW, Seattle, WA, 98117, with his mother.

Stites failed to submit written reports for the months of January and February 2013. On February 27, 2013, John Fenton, Stites' Washington Department of Corrections Probation Officer, advised that he had obtained a warrant for Stites' arrest, as Stites had absconded supervision. On February 27, 2013, this officer tried to call Stites. I also attempted to call his wife, but her number is disconnected. I called his mother and requested she have Stites call me. Stites has not called to report. On March 8, 2013, I attempted to call Stites, but was unable to make contact with him. I left his mother a voicemail on her phone to have him call me. Stites has not returned my calls. On March 5, 2013, I sent Stites a letter to his address in Seattle, to report on March 13, 2013, at 2 p.m. He failed to report as directed.

RECOMMENDED ACTION: Based upon the above allegations, probable cause has been established that a violation of supervised release has been committed. It is recommended the Court order the issuance of a Warrant and Order to Show Cause why Stites' term of supervised release should not be revoked.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 14, 2013.

Respectfully,

ORDER OF THE COURT

Matthew K. Prelitt
Matthew K. Prelitt
U.S. Probation Officer

Considered and ordered this 15 day of March, 2013, and
ordered filed and made a part of the records in the above case.

Anna J. Brown
The Honorable Anna J. Brown
U.S. District Judge

MP/eg/34480

Page 1 of 1

21AM;

PROB 19
(Rev 5/92)

UNITED STATES DISTRICT COURT

for

District of Oregon

U.S.A. vs JOHN TIMOTHY STITES

Docket No. 0979 3:04CR00349-001-BR

TO:¹ Any U.S. Marshal or any other authorized officer

WARRANT FOR ARREST OF PROBATIONER/SUPERVISED RELEASEE

You are hereby commanded to arrest the within-named probationer/supervised releasee and bring him or her, forthwith, before the United States District Court to answer charges that he or she violated the conditions of his or her supervision imposed by the court.

NAME OF PROBATIONER/SUPERVISED RELEASEE John Timothy Stites SEX M RACE W-Non-Hispanic origin AGE 34

ADDRESS (STREET, CITY, STATE)

SENTENCE IMPOSED BY (NAME OF COURT)

U.S. District Court, Portland, Oregon

DATE IMPOSED

September 12, 2005

TO BE BROUGHT BEFORE (NAME OF COURT, CITY, STATE)

U.S. District Court, Portland, Oregon



Mary L. Moran, Clerk of the Court
CLERK

s/Janett Cubias
(BY DEPUTY CLERK)

03/15/2013

DATE

RETURN

Warrant received and executed,

Date Received

Date Executed

EXECUTING AGENCY (NAME AND ADDRESS)

NAME

(BY)

DATE

¹Insert designation of officer to whom the warrant is issued, e.g., "any United States Marshal or any other authorized officer;" or "United States Marshal for _____ District of _____;" or "any United States Marshal;" or "any Special Agent of the Federal Bureau of Investigation;" or "any United States Marshal or any Special Agent of the Federal Bureau of Investigation;" or "any agent of the Alcohol Tax Unit."

21AM;

#1672640
84903

U.S. Department of Justice
United States Marshals Service



DETAINER

BASED ON VIOLATION OF PROBATION AND/OR SUPERVISED RELEASE

United States Marshal
Western District of Washington
(District)

700 Stewart Street, Suite 9000
Seattle, WA 98101-1271
206 370-8652
(Return Address and Phone)

BOOKED

NOV - 7 2013

KING COUNTY JAIL
KENT DIVISION

Please type or print neatly:

TO: REGIONAL JUSTICE CENTER
620 W. JAMES
KENT, WA 98035
ATTN: RECORDS

DATE: 11/07/2013

SUBJECT: SITITES John Timothy

AKA: DERRI Christopher

DOB/SSN:

REF. # BA#213029866

USMS #: 68311-065

CR #:

Please accept this Detainer against the above-named subject who is currently in your custody. The United States District Court for the Western District of Washington has issued an arrest warrant charging the subject with violation of the conditions of probation and/or supervised release.

Prior to the subject's release from your custody, please notify this office at once so that we may assume custody if necessary. If the subject is transferred from your custody to another detention facility, we request that you forward our Detainer to said facility at the time of transfer and advise this office as soon as possible.

The notice and speedy trial requirements of the Interstate Agreement on Detainers Act do NOT apply to this Detainer, which is based on a Federal probation/supervised release violation warrant.

Please acknowledge receipt of this Detainer. Please provide one copy of this Detainer to the subject and FAX one copy to this office at 206-370-8674.

FAX No.

RECEIPT	
Date:	11-12-13
Signed:	J. B. [Signature]
By:	Jeff Rorner
Title:	Corrections Officer

Very truly yours,

[Signature]
(Signature)

DAVID Y. MILLER (Acting) U.S. MARSHAL
(Name and Title)

Requested by: MICHELLE HAMILTON, DUSM

1 MICHAEL C. ORMSBY
2 United States Attorney
3 Eastern District of Washington
4 ALISON L. GREGOIRE
5 Assistant United States Attorney
6 402 E. Yakima Ave., Suite 210
7 Yakima, WA 98901
8 Telephone: (509) 454-4425

9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,)
14) NO: 13-CR-4346-JPH
15 Plaintiff,)
16) NOTICE OF APPEARANCE
17 vs.)
18)
19 JOHN TIMOTHY STITES,)
20)
21 Defendant.)
22)

23 Plaintiff, United States of America, by and through Michael C. Ormsby,
24 United States Attorney for the Eastern District of Washington, and Alison L.
25 Gregoire, Assistant United States Attorney for the Eastern District of Washington,
26 hereby enters this Notice of Appearance on behalf of the United States of America.

27 DATED this 15th day of November 2013.

28 MICHAEL C. ORMSBY
United States Attorney

s\ Alison L. Gregoire
ALISON L. GREGOIRE
Assistant United States Attorney

Notice of Appearance

United States District Court, Eastern District of Washington
Magistrate Judge James P. Hutton
Yakima

USA v. JOHN TIMOTHY STITES

Case No. MJ-13-4346-JPH

**Rule 5 Initial Appearance on Supervised Release
Violation:**

11/18/2013

- | | |
|--|---|
| <input checked="" type="checkbox"/> Pam Howard, Courtroom Deputy [Y]
<input checked="" type="checkbox"/> Beckie Nichols, US Probation / Pretrial Services Officer
<input checked="" type="checkbox"/> Defendant present in custody USM | <input checked="" type="checkbox"/> Benjamin Seal, US Atty
<input checked="" type="checkbox"/> Alex B. Hernandez, III, Defense Atty
<input checked="" type="checkbox"/> Interpreter NOT REQUIRED |
|--|---|

-
- | | |
|--|---|
| <input checked="" type="checkbox"/> USA Oral Motion for Detention
<input type="checkbox"/> USA not seeking detention
<input checked="" type="checkbox"/> Financial Affidavit (CJA 23) filed
<input checked="" type="checkbox"/> The Court will appoint the Federal Defenders
<input type="checkbox"/> Based upon conflict with Federal Defenders, the Court will appoint a CJA Panel Attorney
<input type="checkbox"/> Conditions of Release Imposed
<input type="checkbox"/> 199C Advice of Penalties/Sanctions
<input type="checkbox"/> Ordered Release on Personal Recognizance; 199C Not Required | <input checked="" type="checkbox"/> Rights given
<input checked="" type="checkbox"/> Acknowledgment of Rights filed
<input checked="" type="checkbox"/> Defendant received copy of charging document
<input checked="" type="checkbox"/> Defendant waived reading of charging document
<input type="checkbox"/> Charging document read in open court
<input type="checkbox"/> Pre-Trial Services Report ordered
<input checked="" type="checkbox"/> Waiver of Rule 5 Hearings filed
<input checked="" type="checkbox"/> Court Ordered Removal to Charging District |
|--|---|

REMARKS

Defendant appeared and was assisted by counsel and advised of their rights and the allegations contained in the charging document.

The Court ordered:

1. REMOVAL of the defendant to the charging district.
2. Defendant shall be detained by the U. S. Marshal until further order of the Court.

Identity Hrg:	<i>Waived by Defendant</i>
Bail Hrg:	<i>Waived by Defendant</i> ; USA's Motion for Detention is granted .
Probable Cause Hrg:	<i>Waived by Defendant</i>

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN TIMOTHY STITES,

Defendant.

No. MJ-13-4346-1

ORDER OF REMOVAL

☒ MOTION GRANTED
(ECF No. 4)

---- ACTION REQUIRED ----

Date of hearing: 11/18/2013

☒ Petition for action: Post-conviction

Defendant was advised of, and acknowledged, Defendant's rights.

☒ Defendant, individually and through counsel, waived the right to an identity hearing, pursuant to Rule 5. Defendant's waiver is accepted as knowing and voluntary.

☒ Defendant, individually and through counsel, waived the right to a probable cause hearing. Defendant's waiver is accepted as knowing and voluntary.

☒ Defendant, individually and through counsel, waived Defendant's right to a bail hearing. Defendant's waiver is accepted as knowing and voluntary. The agreement not to contest detention at this time is without prejudice to the Defendant requesting a bail hearing in the District of Oregon.

IT IS ORDERED:

1. Defendant is committed to the custody of the United States Marshal for detention until further order of the court, and for removal as soon as reasonably possible to the District of Oregon.

2. Defendant shall be made reasonably available for communication with court-appointed counsel.

3. Until appointment of counsel in the charging district, all notices shall be sent to the Federal Defenders of Eastern Washington, N. 10 Post St., Suite 700, Spokane, WA 99201.

DATED November 18, 2013.

s/James P. Hutton
JAMES P. HUTTON
UNITED STATES MAGISTRATE JUDGE

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 18 2013

SEAN F. McAVOY, CLERK
DEPUTY
YAKIMA, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN TIMOTHY STITES,

Defendant.

ACKNOWLEDGMENT OF NOTICE
OF RIGHTS

Magistrate Docket No.

MJ-13-4346-1

The undersigned defendant does hereby acknowledge: I appeared before a United States Magistrate Judge this date and have been advised as follows:

1) Of the charge or charges placed against me and the maximum penalty provided by law, and I acknowledge receipt of a copy of the Supervised Release Violation Report, which specifically sets forth the allegations;

2) That I have been advised of the maximum penalty provided by law;

3) My right to remain silent at all times and if I make a statement it can be used against me;

4) My right to retain my own counsel, and if I am without funds, to have counsel appointed to represent me in this matter;

5) My right to a hearing before the judicial officer where the Supervised Release was imposed and to be confronted by the government's witnesses, and I am entitled to have witnesses attend on my behalf;

6) My right to a hearing on the warrant for removal to ascertain that I am the person named in the Violation Report or if I wish I can waive this hearing in writing;

ACKNOWLEDGMENT OF NOTICE OF RIGHTS
RULE 5/SUPERVISED RELEASE CONDITIONS

1
2 7) That if the United States moves for a detention hearing, it must be held within three days
3 and that I have the right to be represented by counsel at such hearing, but that the United States has
4 determined to defer asking for a detention hearing until my first appearance in the charging district.

5 Dated this 18 day of NOV., 2013.

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8 Defendant

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ACKNOWLEDGMENT OF NOTICE OF RIGHTS
RULE 5/SUPERVISED RELEASE CONDITIONS

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 18 2013

SEAN F. McAVOY, CLERK
YAKIMA, WASHINGTON DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN TIMOTHY STITES,

Defendant.

MJ-13-4346-1

Defendant's Assertion of
Fifth and Sixth Amendment
Rights

TO: MICHAEL C. ORMSBY, UNITED STATES ATTORNEY

I, the above-named defendant, hereby assert my rights under the Fifth and Sixth Amendments of the United States Constitution, including but not limited to my rights to remain silent and to have counsel present at any and all of my interactions with the government or others acting on the government's behalf. I do not wish to, and will not, waive any of my constitutional rights except in the presence of counsel. I do not wish to have, nor do I consent to, any contact with any government official, including but not limited to law enforcement agents, except through my counsel. I do not want the government or others acting on the government's behalf to question me, or to contact me seeking a waiver of any rights, unless my counsel is present. The Government should so instruct its agents.

DATED this 10 day of Nov., 2013.

Respectfully Submitted,


DEFENDANT

Defendant's Assertion of
Fifth and Sixth Amendment Rights

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 18 2013

SEAN F. McAVOY, CLERK
YAKIMA, WASHINGTON DEPUTY

Defendant.

WAIVER OF RULE 5 HEARINGS

14

1 If this matter is proceeding by **PETITION**:

2 **I WAIVE (GIVE UP) MY RIGHT TO A(N)**

- 3 ☒ identity hearing in this district
4 ☒ probable cause hearing in this district
5 ☒ bail hearing in this district

6 If this matter is proceeding by **WARRANT**:

7 **I WAIVE (GIVE UP) MY RIGHT TO A(N)**

- 8 ☐ identity hearing in this district
9 ☐ bail Hearing in this district

10 and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting
11 district where the charge is pending against me.

12 As to those hearings which are waived in this district, other than the identity hearing, I
13 **RESERVE** the right to have those hearings in the prosecuting district.

14
15 11/18/13
16 Date

17
18 
19 Defendant

20 
21 Defense Counsel

22 Interpreted by (if applicable):
23
24
25

(Sign and Print Name)